

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-VS-

JUDE LACOUR,

Defendant

_____ /

Case No. 6:08-cr-118-Orl-DAB-DAB

FILED
April
2009 MAR 32 AM 11:11
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

MOTION TO DISMISS FOR MALICIOUS AND OUTRAGEOUS PROSECUTORIAL
MISCONDUCT

1. Defendant Jude T. Lacour, a Pro Se inmate at Orange County Correctional Facility, pursuant to Due Process Clause of the 5th and 6th Amendment, and Federal Rules of Criminal Procedure, is respectfully requesting that the Court issue an order dismissing all charges against the Defendant, with prejudice and in the alternative:

- A. That all current members of the government's trial team be disqualified for their outrageous, malicious and vindictive prosecutorial misconduct and that the Court request the U.S. Department of Justice to appoint a Special Prosecutor to investigate the prosecutors from the Middle District of Florida who are involved in this miscarriage of justice.
- B. That this latest misconduct motion along with Doc0422 detailing previous criminal misconduct be submitted to Office of Professional Responsibility in order to conduct an appropriate investigation and adjudication of this matter.
2. In administering justice, a prosecutor must abide by a strict code of ethics and discover the truth while carrying out all official duties. Prosecutors should prosecute with "earnestness and vigor" while employing only "legitimate investigative techniques" to ensure that "guilt shall not escape or innocence suffer." (Berger v. United States (1935) 295 U.S. 78, 88.)
3. In carrying out their duties, prosecutors are required to follow statutory regulations, including upholding the federal and state constitutions and laws; respecting courts of justice and judicial officers; maintaining only such actions as appear to be legal or just; and employing only such means as are consistent with the truth and never seeking to mislead a judge or judicial officer.
4. On July 16, 2008, Assistant U.S. Attorney Cynthia Hawkins, on behalf of prosecutor Karen Gable, made an appearance before Judge Anne Conway stating

in open court that it was brought to her attention (via document 101) that Defendant's Investigator

“.....is investigating Ms. Gable and her husband and their private lives and their occupations. The concern that I have, Your Honor, and I want to put it on record, as the manager of the Orlando office, it may be that if this—continues, that it could be a suggestion of obstruction of justice. And I understand that this investigative consultant is here in the courtroom. And we would just want everyone to be on notice, Mr. Lacour and whoever is working for him, that they're on notice that if they take any action that's not investigating this case but investigating any attorneys from our office for any reason, their private lives, that that may well constitute obstruction of justice or another criminal offense. And we would be in a position to open a criminal matter if that is the case. I want the Court to be aware of that....”

5. The Orlando prosecutor(s) intentionally and falsely misrepresented Defendant's notice and used the open court to slander his Investigative Consultant by lying what was stated and or intended in the notice. This is exactly what the prosecutor Karen Gable did in the subsequent bond hearing when she was suborned perjury from an IRS agent who knowingly misrepresent the evidence of flight. Perjury is an attack on our entire judicial system and framing an innocent man by intimidating his legal camp is outrageous and illegal. Lying about a single issue clouds the truth concerning the entire investigation because it undermines the integrity of a fair trial. Defense Investigator Bill Pavelic never pried into prosecutors private lives and his investigation of prosecutorial misconduct by

Karen Gable is a matter that the Office of Professional Responsibility and the Grand Jury will have to investigate.

6. On March 31, 2009, on the eve of trial, prosecutor Karen Gable stated in open court that Investigative Consultant, Bill Pavelic was involved in Money Laundering, in the instant case. Defendant informed his Investigative Consultant of the charges leveled against him and as a retired detective, he is respectfully requesting that the Office of Professional Responsibility and a Special Prosecutor immediately investigate this and other acts of abuse of power involving prosecutor Karen Gable. The prosecutor has lost her moral authority to handle this case.

7. Pursuant to Karen Gable's argument before the Court, Mr. Pavelic is either a target of an investigation and or an unindicted co-conspirator. The latest outrageous allegation and intimidation by prosecutor Karen Gable has severely prejudiced this Defendant's ability to get a fair trial, not able to rely on his defense investigator, give an opening statement without fear of retribution and or testify on his own behalf. Permitting this corrupt prosecutor to represent the People is the ultimate miscarriage of justice.

8. Mr. Pavelic has informed the Defendant that he will testify under penalty of perjury concerning prosecutor Karen Gable's criminal misconduct as soon as the anticipated Special Prosecutor is appointed in this matter.

9. As previously stated in document 421, The Courts have long recognized that indictments may be dismissed in the cases of unambiguously criminal, flagrant and or bad faith abuses by the prosecution in order to protect judicial integrity and deter prosecutorial misconduct. *United States v. Carrasco*, 786 F.2d 1452, 1455 (9th Cir. 1986), citing *United States v. Kennedy*, 564 F.2d 1329, 1338 (9th Cir. 1984). This notion of protecting judicial integrity in the face of prosecutorial misconduct harkens back to Justice Sutherland's cautionary words in 1935: [t]he United States Attorney is the representative not of an ordinary party, whose interest is not that it shall win a case, but that justice be done. *Berger v. United States*, 295 U.S. 78, 88 (1935).

10. This sentiment is steeped in the very fundamental rights underlying our legal system. As Judge Aldisert observed in *United States v. Jannotti*, 673 F.2d 578 (3rd Cir. 1982), "[t]here is no more cruel tyranny than that which is expressed under

cover of the law, and with the colors of justice.” Id. at 614 (quoting Montesquieu, *De l’Esprit des Lois*).

11. These instructions regarding prosecutorial ethics that mandates candor toward the tribunal, fairness to opposing party and counsel, and special responsibilities of a prosecutor, and the constitutional commands of *Brady v. Maryland*, have not been heeded by representatives of the United States Attorney’s Office for the Middle District of Florida.

12. As was previously characterized, among many misconduct allegations, Defendant will prove beyond a reasonable doubt that in the instant case the government committed and engaged in obstruction of justice by covering up felonious crimes, withheld exculpatory evidence which would have exposed their criminal activities, concealed and covered up criminal violations of it’s agents, provided deliberately false and misleading answers to discovery, intentionally made false and misleading representations to the Court, maliciously violated Defendant’s right to a reasonable bail, violated has speedy trial rights, manipulated the Grand Jury process, willfully deprived Defendant of being able to review 400,000 pages of discovery, and used conflicted judges to strike his notices and motions because

Defendant caused the removal of three Federal judges who were disqualified and or conflicted out as a result of their financial ties to a local powerhouse law firm of Akerman-Senterfitt.

13. In isolation, any one of these outrageous acts would warrant dismissal.

Collectively, these actions mandate dismissal and additional sanctions to curb blatant and criminal prosecutorial abuse, that was orchestrated by prosecutor Karen Gable.

WHEREFORE, This Pro Se inmate respectfully request that this Court enter its Order and dismiss this case with prejudice.

I HEREBY CERTIFY that on April 1, 2009, I filed the foregoing with the Clerk of the Court and Assistant U.S. Attorney by hand delivering this motion to the following entities:

Clerk's Office, US. District Court
Middle District of Florida, Orlando Division
United States Courthouse, Suite 1200
401 West Central Boulevard
Orlando, FL 32801

Karen L. Gable, Assistant U.S. Attorney
501 W. Church St., Suite 300
Orlando, FL 32801

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jude T. Lacour", written over a horizontal line.

Jude T. Lacour, Pro Se Inmate